IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.1954 OF 2005

Jitendra Ghanshyam Dubey ...Applicant

Versus

The State of Maharashtra ...Respondent

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Mr.A.P.Mundargi with Mr.Indrajeet Joshi for Applicant.

Mr.K.V.Saste, A.P.P. for Respondent.

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CORAM: A.M.KHANWILKAR, J.

MARCH 28, 2005.

P.C.

1. Heard Counsel for the parties. Perused the record.

2. It is not in dispute that investigation is almost complete, as all relevant documents have been seized and admitted signatures of the concerned accused are also obtained.

3. The allegation against the Applicant, who

happens to be Developer, is twofold. The first allegation is that he has supplied flat of lesser area than the area specified under the Agreement entered between the Applicant and the Complainant. The second allegation is that forged documents were submitted to the bankers on behalf of the Complainant for availing of loan, on the basis that the area of the flat was much higher than the one mentioned in the Agreement executed between the parties.

4. Insofar as the first allegation is concerned, the argument of the Applicant is that the area mentioned in the Agreement sent for registration is the super built-up structure area which is 728 square feet and the carpet area thereof is 465 square feet, which, admittedly, has been provided to the Complainant. If this is correct, there is force in the argument of the Counsel for the Applicant that there is no question of invoking offence of Section 420 of the Indian Penal Code in such a fact situation.

5. Insofar as the second allegation against

the Applicant is concerned, it is common ground that the bank employees have been released on bail by the lower Court. The bank employees have been arraigned as co-accused on the allegation that they are party to entertaining forged documents to process the application for loan made on behalf of the Complainant.

6. In any case, as the Application has been made by the Complainant himself, under his signature, and all the original documents have been seized by the concerned Police, in my opinion, it would be appropriate to allow this Application preferred by the Applicant, taking overall view of the matter, but on following conditions:

(a) The Applicant is directed to be released on bail in connection with C.R.No.I-8 of 2005 registered with Palghar Nagar Police Station on executing personal bond in the sum of Rs.20,000/- (Rupees Twenty Thousand) with one or two local sureties in the like amount.

(b) The Applicant shall report to the

Investigating Officer once in a week on Saturday between 10.00 a.m. and 2.00 p.m. till the filing of the charge-sheet.

(c) The Applicant shall not influence the prosecution witnesses or tamper with the prosecution evidence in any manner whatsoever.

(d) The Applicant shall extend full co-operation to the Trial Court for early disposal of the trial and if the Trial Court is of the opinion that the Applicant is responsible for the delay of the trial, that fact be recorded in the Roznama, which will be a ground for cancellation of bail.

7. Application disposed of on the above terms.

A.M.KHANWILKAR, J.